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| APPLICATION NO.                | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------|-------------|----------------------|---------------------|------------------|
| 10/509,648                     | 09/29/2004  | Bjorn Thulin         | 363.840USN          | 2265             |
| 33369                          | 7590        | 05/04/2006           | EXAMINER            |                  |
| FASTH LAW OFFICES (ROLF FASTH) |             |                      | MISIASZEK, MICHAEL  |                  |
| 26 PINECREST PLAZA, SUITE 2    |             |                      | ART UNIT            |                  |
| SOUTHERN PINES, NC 28387-4301  |             |                      | PAPER NUMBER        |                  |
|                                |             |                      | 3625                |                  |

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/509,648 | <b>Applicant(s)</b><br>THULIN, BJORN |  |
|                              | <b>Examiner</b><br>Michael Misiaszek | <b>Art Unit</b><br>3625              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 12/06/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. Applicant should provide a PTO-1449 form as the Information Disclosure Statement.

### ***Claim Objections***

The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim 1 is objected to because of the following informalities: in lines 12-14, the limitation is grammatically incorrect. The Examiner suggests revising the

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limitation to read --sending request signals to the suppliers if no copy of the music score is available in the database--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 1, 2, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege (US 6477532 B1) in view of Razdan.**

**Regarding Claim 1**

Duliege discloses a method for using the Internet to facilitate a transaction between a customer and at least one supplier of music scores to discourage illegal copying of music scores, comprising:

- associating suppliers (26, 28, 30) of music scores with a music score service unit (18) (at least column 1, lines 50-55: musical groups can publish their scores through the system)
- a customer (12) contacting a website (16) of the service unit (18) and sending a request signal (19) to the website (16) to obtain a music score (20) (at least column 1, lines 55-67: client sends signal to system to download score)

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- the service unit (18) receiving the signal (19) and the service unit (18) digitally searching for the music score (20) in a database (22) to determine whether the music score (20) is available in the database (22) (at least column 1, lines 55-67: search criteria submitted to search file)
- the suppliers (26, 28, 30) sending back an affirmation signal (32) to the service unit (18) when a digital copy (35) of the music score (20) is available from the suppliers (at least column 1, lines 50-67: artists publish works to the system)
- the service unit (18) receiving the affirmation signal (32) (at least column 1, lines 50-67: artists publish works to the system)
- the supplier (28) sending the digital copy (35) of the music score (20) to the service unit (18) (at least column 1, lines 50-67: artists publish works to the system)
- the service unit (18) receiving the digital copy (35) of the music score (20) and sending a delivery signal (36) to the customer including the digital copy (35) of the music score (20) (at least column 2: client downloads score obtained from system)

Duliege does not disclose:

- when no copy of the music score (20) being available in the database (22), the unit (18) sending request signals (24a-c) to the suppliers (26, 28, 30);

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- the service unit (18) sending a delivery request signal (41) to the supplier (28);

Razdan teaches that it is known to include sending a request to suppliers when a product is not available for purchase (at least paragraph [0033]: distributors sends query to clearinghouse, requesting delivery of digital content) and sending a delivery request to the supplier (at least paragraph [0033]: distributors sends query to clearinghouse, requesting delivery of digital content) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege, with the requests sent to suppliers, as taught by Razdan, since such a modification would have provided a means to effectively monitor digital content remotely at least paragraph [0011] of Razdan).

#### Regarding Claims 2, 8

Duliege discloses:

- the service unit (18) sending the digital copy (35) to the customer (12) when the digital copy (35) is available in the database (22) (at least column 2, lines 1-15: user downloads music score)
- the service unit (18) sending a charge signal (37) to the customer (12) to request payment of the digital copy (35) and the customer (12) sending a

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payment signal (39) to the service unit (18) (at least column 2, lines 6-10:  
download activation contingent on the receipt of payment)

**2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege in view of Razdan as applied to claim 1 above, and further in view of Krahn (US 20030018586 A1).**

The combination of Duliege and Razdan discloses the claimed invention except for:

- the customer (12) pre-paying for the digital copy (35)

Krahn teaches that it is known to include a customer pre-paying for digital content (at least paragraph [0023]: prepaid number of digital files) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege and Razdan, with the pre-paying for digital content, as taught by Krahn, since such a modification would have provided a package that can be selectively activated to access the Internet and download content (at least paragraph [0006] of Krahn).

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**3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege in view of Razdan as applied to claim 1 above, and further in view of Burton (US 20020055878 A1).**

The combination of Duliege and Razdan discloses the claimed invention except for:

- the service unit (18) compensating the supplier (28) with the payment amount received from the customer (12) minus a service charge

Burton teaches that it is known to include compensating a supplier minus a service charge (at least paragraph [0030]: payment remitted to suppliers with service charges subtracted) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege and Razdan, with the payment to the supplier minus a service charge, as taught by Burton, since such a modification would have provided a means for ensuring that e-commerce providers are paid their commissions (at least paragraph [0014] of Burton).



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**4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege in view of Razdan as applied to claim 1 above, and further in view of Banerjee et al. (US 20030023521 A1, hereinafter Banerjee).**

The combination of Duliege and Razdan discloses the claimed invention except for:

- the service unit (18) charging the customer (12) a reduced fee or no fee at all when the digital copy (35) is not delivered within a promised time period.

Banerjee teaches that it is known to include compensating a customer financially if digital content is not delivered within a promised time frame (at least paragraph [0045]: payment sent to requestor if e-mail not received in promised time) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege and Razdan, with the financial compensation for untimely delivery, as taught by Banerjee, since such a modification would have provided a means for protection against damages that may occur due to the untimely delivery of data (at least paragraph [0009] of Banerjee).

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**5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege in view of Razdan as applied to claim 1 above, and further in view of Sitrick (US 20030024375 A1).**

The combination of Duliege and Razdan discloses the claimed invention except for:

- the service unit (18) providing transposition services to the customer (12)

Sitrick teaches that it is known to include providing transposition services for digital music content (at least paragraph [0018]: system can transpose music) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege and Razdan, with the transposition services, as taught by Sitrick, since such a modification would have provided a means for music synchronization, analysis, and communication in an electronic networked environment (at least paragraph [0011] of Sitrick).

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**6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duliege in view of Razdan as applied to claim 1 above, and further in view of lida (US 6209787 B1).**

The combination of Duliege and Razdan discloses the claimed invention except for:

- the supplier (28) sending a royalty payment to a copyright control function (33) associated with a copyright owner (34)

lida teaches that it is known to include sending a royalty payment to copyright owners (at least column 2, lines 31-40: collecting royalties for copyrights) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for using the Internet to facilitate a transaction, as taught by Duliege and Razdan, with the collecting of royalties, as taught by lida, since such a modification would have provided a means for generating a financial return on copyrights for user personalized compilations of music content (at least column 1, lines 60-67 and column 2, lines 1-3 of lida).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiaszek whose telephone number is (571) 272-6961. The examiner can normally be reached on 8:00 AM - 4:30 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on (571) 272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael A. Misiaszek  
Patent Examiner  
5/1/2006

*Michael A. Misiaszek*  
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